

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

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LOWANA SHANNELL DUMAS,

Plaintiff,

v.

Case No. 10-12661

CITY OF FLINT, et al.,

Defendants.

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**ORDER OVERRULING OBJECTIONS TO TAXED BILL OF COSTS**

*Pro se* Plaintiff Lowana Dumas sued Defendants Hurley Medical Center, Kristen Deloney, Dwayne Parker, American Federation of State, County and Municipal Employees (“AFSCME”) Council 25, AFSCME Local 1603, Patricia Ramirez, Deloris Lots, and Victoria Thompson, alleging unlawful discrimination. On July 16, 2013, the court adopted Magistrate Judge Mona A. Majzoub’s “Report and Recommendation” and entered judgment in favor of Defendants.

On July 17, 2013, Defendant AFSCME submitted its “Amended Bill of Costs” with supporting invoices. AFSCME requested that the court award it a total of \$810.40 in taxable costs for fees associated with the depositions of Plaintiff and Defendant Victoria Thompson. The attachment to the “Amended Bill of Costs” states that the transcripts were “necessarily used in Defendant [AFSCME’s] Motion to Dismiss and for Summary Judgment filed approximately December 10, 2012.” (Pg. ID # 4375.) On July 18, 2013, the Clerk entered the “Taxed Bill of Costs,” which awarded costs against Plaintiff in the amount of \$810.40—the amount that AFSCME requested. On July 23, 2013, Plaintiff

filed a motion to review the assessed costs requesting a reduction to no costs. For the reasons stated below, the motion will be denied.

Federal Rule of Civil Procedure 54(d)(1) provides that “[u]nless a federal statute, these rules, or a court order provides otherwise, costs—other than attorney’s fees—should be allowed to the prevailing party.” Rule 54 thus “creates a presumption in favor of awarding costs” other than attorney’s fees. *White & White, Inc. V. American Hospital Supply Corp.*, 786 F.2d 728 (6th Cir. 1986). 28 U.S.C. § 1920 provides that a Judge or Clerk may tax various costs including, “[f]ees for printed or electronically recorded transcripts necessarily obtained for use in the case.” 28 U.S.C. § 1920(2). Similarly, pursuant to the local rules and the court’s Bill of Costs Handbook, the recoverable costs may include a “transcript used in support of a motion.” E.D. Mich. LR 54.1; Eastern District of Michigan Bill of Costs Handbook, Section II(B)(1)(d). Following the taxing of allowable costs, “counsel for either side, may within seven days, file a motion to review the action of the taxation clerk and request review by the Court.” *Id.*

AFSCME’s attachment to its Bill of Costs states that the transcripts were “necessarily used in Defendant [AFSCME’s] Motion to Dismiss and for Summary Judgment filed approximately December 10, 2012.” (Pg. ID # 4375.) Review of that motion reveals that it cited Plaintiff’s deposition seventeen times and Defendant Thompson’s deposition four times. Thus Defendant AFSCME did use the deposition in support of its motion to dismiss and for summary judgment. Moreover, the court is barred from considering Plaintiff’s employment situation and current financial condition. The Sixth Circuit has held that ability to pay costs are to be ignored for purposes of effectuating the presumption in favor of awarding costs under Rule 54(d)(1). *McDonald*

*v. Petree*, 409 F.3d 724, 732 (6th Cir.2005). The taxable costs requested by Defendant AFSCME in the amount of \$810.40 are properly recoverable. Accordingly,

IT IS ORDERED that Plaintiff's Objections to the Taxed Bill of Costs, [Dkt. # 215], is DENIED. Pursuant to the Taxed Bill of Costs filed by the Clerk of the Court, [Dkt # 210], Plaintiff is responsible for taxed costs in the amount of \$810.40.

s/Robert H. Cleland  
ROBERT H. CLELAND  
UNITED STATES DISTRICT JUDGE

Dated: January 10, 2014

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, January 10, 2014, by electronic and/or ordinary mail.

s/Lisa Wagner  
Case Manager and Deputy Clerk  
(313) 234-5522